

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TOMASENA DUREEKA RIVERS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:24-cv-00836-BAM

**ORDER TO SHOW CAUSE WHY ACTION
SHOULD NOT BE DISMISSED WITH
PREJUDICE**

FOURTEEN (14) DAY DEADLINE

ORDER VACATING HEARING

Plaintiff Tomasena Dureeka Rivers (“Plaintiff”), proceeding pro se, filed the instant action against the Commissioner of Social Security on July 19, 2024. (Doc. 1.) Defendant Commissioner of Social Security filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) on September 19, 2024. (Doc. 11.) The motion is currently set for hearing on October 25, 2024.

The Scheduling Order issued in this case requires that any opposition to a motion to dismiss be filed within fourteen (14) days after service of the motion. (Doc. 5 at 2, ¶ 6.)

The Commissioner of Social Security served the motion to dismiss on Plaintiff by mail on September 19, 2024. (See Doc. 11 at 11.) Plaintiff’s opposition brief to the motion to dismiss was due no later than October 7, 2024. As of the date of this order, no opposition has been filed.

Accordingly, it is HEREBY ORDERED that Plaintiff shall show cause by WRITTEN RESPONSE **within fourteen (14) days of service of this order** why the motion to dismiss

1 should not be granted and the action dismissed with prejudice based on Plaintiff's failure to file a
2 timely opposition. Plaintiff may comply with the Court's order by filing an opposition or
3 statement of non-opposition to the Commissioner of Social Security's September 19, 2024
4 motion to dismiss. Alternatively, Plaintiff may file a notice of voluntary dismissal pursuant to
5 Federal Rule of Civil Procedure 41(a)(1). Plaintiff is warned that failure to comply with the
6 Court's order will result in dismissal of this action with prejudice. (*See also* Doc. 5 at 3, ¶ 10
7 ("Violation of [the Scheduling Order], the Federal Rules of Civil Procedure, or the Local Rules
8 may result in sanctions pursuant to Local Rule 110.").)

9 IT IS FURTHER ORDERED that the hearing scheduled for October 25, 2024, is
10 VACATED.¹

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12 IT IS SO ORDERED.

13 Dated: October 15, 2024

14 /s/ Barbara A. McAuliffe
15 UNITED STATES MAGISTRATE JUDGE
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28 ¹ The Scheduling Order provides that a motion to dismiss filed pursuant to Federal Rule of Civil Procedure 12 shall not be noticed for hearing. (Doc. 5 at 2, ¶ 6.)